

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No.: 04-11939-JGD

MICHAEL J. WHALON,

Plaintiff,

v.

CHRISTY'S OF CAPE COD, LLC,

Defendant.

JOINT MOTION FOR 30 DAY EXTENSION OF SCHEUDLING ORDER

Plaintiff Michael J. Whalon ("Whalon") and Defendant Christy's of Cape Cod, LLC ("Christy's") (collectively, "the Parties") jointly move for a 30-day extension of the current Scheduling Order in this case to permit for the proper and efficient completion of discovery in this case.

If granted by the Court, such an Order would provide for the following events, in the following sequence:

- a. Designation of expert witnesses, if any, by Whalon no later than March 15, 2006. Designation of expert witnesses, if any, by Christy's no later than March 25.
- b. Completion of all remaining depositions and service of any supplementary written discovery by April 30, 2006. Requests for Admissions may be served on or before April 15, 2006 and responses shall be served no later than May 15, 2006.
- c. Filing of Summary Judgment Motions, if any, by May 30, 2006.

- d. A trial date to be set by the Court in the Summer of 2006, following ruling on Summary Judgment Motions, if any.

As grounds in support of this Motion, the Parties [Christy's] state as follows:

1. The Parties have been working in a cooperative and reasonably efficient manner to resolve this matter, and have engaged in ongoing settlement discussions as appropriate. Counsel resolve to continue such discussions in good faith, including the possibility of resolution via alternative dispute resolution.
2. Due to some scheduling issues involving counsel, the Parties have been slightly delayed in completion of certain events but have essentially maintained the Scheduling Order set by the Court.
3. Having most recently discussed settlement in early February, the Parties believe that settlement is not imminent, and that depositions of treating clinicians and/or experts must proceed. The Parties have yet to designate experts.
4. Counsel for Christy's requires a slight extension of time due to events unforeseen at the time of the November Conference before the Court which will make it difficult to complete discovery, as scheduled, by the end of March 2006 and prepare and file Summary Judgment Motions by the end of April 2006. Notably, Attorney Colomb is scheduled to commence an anticipated 3 to 5 day hearing before the National Labor Relations Board on April 3, 2006. This hearing arises out of a Board election in a unit of over 700 employees and is of a significant scope, including multiple witnesses who must be prepared in March 2006. Additionally, Attorney Dolan is leaving Murphy, Hesse, Toomey and Lehane effective March 17, 2006 to relocate to the Washington, DC area. Accordingly, this brief extension (30 days) will permit Attorney Colomb to better

accommodate his schedule to the remaining discovery requirements in this, and other, cases. (Due to Attorney Dolan's departure, Attorney Colomb will be assuming primary responsibility for approximately six (6) other active cases).

5. This is the first extension sought by [the Parties] [Christy's] and will not unduly prejudice either party or unduly delay the disposition of this action.

Dated: March 8, 2006

Respectfully submitted.

For the Plaintiff:

/s/ David O. Scott

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